UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/684,434
Filing Date: October 15, 2003
Appellant(s): MOTOYAMA ET AL.

James J. Kulbaski
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed 20 December 2007 appealing from the Office

action mailed 10 April 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: the rejections of claims 5, 8, 13, 16, 21, 24, 29 and 32 under 35 U.S.C. 112, second paragraph, are withdrawn.

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal

because they have been withdrawn by the examiner. The rejections of claims 5, 8, 13,

16, 21, 24, 29 and 32 under 35 U.S.C. 112, second paragraph, are withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,202,199	Wygodny et al.	3-2001
5,414,494	Aikens et al.	5-1995

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 5, 8, 9, 13, 16, 17, 21, 24, 25, 29 and 32 are rejected under 35 U.S.C.

103(a) as being unpatentable over Wygodny et al. (US 6,202,199 B1; hereinafter

Wygodny) in view of Aikens et al. (US Pat. 5,414,494; hereinafter Aikens).

As to claim 1, Wygodny teaches a device comprising:

a clock unit [col. 20 lines 53 – 56];

a monitoring unit configured to monitor data of execution of a plurality of

operations and to generate a log of the monitored data in one of multiple formats,

wherein the multiple formats include at least one of a time stamp including a time

of selecting of the plurality of operations of the operation panel or a frequency of

selection of the plurality of operations of the operation panel [col. 5 lines 12 – 23;

col. 6 lines 3 – 11; col. 19 lines 42 – 60; col. 20 lines 53 – 56];

a communicating unit configured to receive the log of the monitored data,

and to communicate data based on the log of the monitored data in one of the

formats [col. 6 lines 49 – 54]; and

Wygodny fails to specifically teach monitoring selections of operations of an

operation panel. However, Aikens teaches an image forming device comprising an

operation panel of said image forming device, the operation panel comprising a plurality

of operations to be selected by a user [col. 3 lines 23 – 33; col. 4 lines 15 – 26] and a

monitoring unit configured to monitor data of selecting of the plurality of operations of

the operation panel by the user [col. 2 lines 25 – 40]. Wygodny teaches selecting

methods to be monitored and Aikens teaches monitoring based on predetermined

conditions and that the user selects functions and determines the conditions through the

user interface [col. 4 lines 15 – 26].

It would have been obvious to one of ordinary skill in the art at the time

Applicant's invention was made to combine the teachings of Wygodny and Aikens

because Wygodny teaches monitoring of remote systems and defining conditions for monitoring [col. 6 lines 21 – 38; col. 10 lines 52 – 62] and Aikens also teaches monitoring the operation of a remote system based on predefined conditions [col. 2 lines 25 – 40].

As to claim 5, Wygodny teaches the communicating unit sends the log of the monitored data when the user exits operating the image forming device [col. 6 lines 1 – 20].

As to claim 8, Wygodny teaches the communicating unit communicates the log of the monitored data by Internet mail [col. 6 lines 49 – 52].

As to claim 33, the combination of Wygodny and Aikens teaches a setting unit configured to set a number of sessions of utilizing the operation panel to be executed by the user prior to the communicating unit communicating the data based on the log of the monitored data [Wygodny: col. 6 lines 3 – 14; col. 19 lines 17 – 60; col. 26 lines 30 – 40].

As to claim 34, the combination of Wygodny and Aikens teaches the communicated data includes the elapsed time of a selection of an operation from a start of the monitoring [col. 20 lines 53 – 56].

As to claim 35, the combination of Wygodny and Aikens teaches the log of the

monitored data includes the frequencies of selection of the plurality of operations of the

operation panel, and the communicated data includes the frequencies of selection of the

plurality of operations of the operations panel [col. 10 lines 52 – 62; col. 19 lines 17 –

60].

As to claims 9, 17 and 25, see the rejection of claim 1 above.

As to claims 13, 21 and 29, see the rejection of claim 5 above.

As to claims 16, 24 and 32, see the rejection of claim 8 above.

As to claims 36, 39 and 42, see the rejection of claim 33 above.

As to claims 37, 40 and 43, see the rejection of claim 34 above.

As to claims 38, 41 and 44, see the rejection of claim 35 above.

(10) Response to Argument

Initially, Appellant argues Wygodny is not related to monitoring use of an

operation panel of an image forming device. While Wygodny is not specifically directed

to an image forming device, this does not prevent a proper combination of Wygodny and Aikens such that the combined teaching is directed to the claimed invention. Specifically, Aikens is directed to monitoring key events in an image forming device (col. 4 line 65 – col. 5 line 8), which are described as possibly including "…user interface buttons being set…" (col. 4 lines 55 – 56) and "…execution of key routines…" (col. 4 lines 58 – 59). Since user interface buttons are used to select certain functions (col. 4 lines 15 – 18), user selection of operations is monitored. Examiner agrees with Appellant's arguments that Wygodny is related to monitoring execution of software.

Since Aikens is directed to monitoring key events in an image forming device, including functions that are selected by users or executed (col. 4 lines 51 – 64), one of ordinary skill in the art would be motivated to combine the teachings of Wygodny and Aikens because Wygodny provides further details regarding how to monitor software execution that one of ordinary skill in the art would realize to be potentially beneficial when applied to monitor software execution in the environment of image forming devices as specifically taught by Aikens. Accordingly, one of ordinary skill in the art at the time Appellant's invention was made would have been motivated to combine the teachings of Wygodny and Aikens and this combination is relevant to Appellant's claimed invention.

Regarding specific limitations of the rejected claims, Appellant first argues Wygodny fails to teach the claimed formats. Examiner notes that claim 1 specifies the

log is generated "...*in one of* multiple formats, wherein the multiple formats include *at*

least one of a time stamp ... or a frequency of selection...," (emphasis added).

Accordingly, Wygodny is not required to teach both time stamp and frequency of

selection formats in order to teach the recited limitation. Wygodny teaches the time

stamp format by stating:

> In one embodiment, the trace detail pane 316 also shows time
> stamps. The time stamps display the time that a function is called and the
> time that the function returns to its caller.

(col. 20 lines 53 – 56). Therefore, Wygodny teaches the limitation by teaching at least

one of the two recited formats.

Appellant argues the time stamps are not directed towards being part of a log of

monitored data (p. 12 ¶ 4). However, the above quoted portion of Wygodny clearly

teaches the time stamps are part of the trace information, which is a log. Wygodny

provides the following definitions (from col. 4 lines 54 – 58):

> "Tracing," or "to trace," refers generally to the process of using a
> monitoring program to monitor and record information about the execution
> of the client while the client is running. A "trace" generally refers to the
> information recorded during tracing.

Appellant argues Aikens fails to teach monitoring selections of operations of an

operation panel as claimed. While Appellant addresses other cited portions of Aikens,

Examiner will focus on the portions cited to specifically teach this limitation.

This issue was initially discussed above with the explanation regarding the combination of the two teachings. Additionally, Appellant argues Aikens is directed to monitoring software and not user selections of an operation panel.

However, Aikens teaches an operation panel can include buttons that initiate operations (see above explanation regarding combination of the two teachings). Furthermore, Aikens teaches the buttons can be soft buttons, such as a touch screen (col. 4 lines 21 – 24). Entering commands through such an interface would be key operating events and one of ordinary skill in the art would understand such commands can initiate software operations, making it obvious to monitor such key events.

In support of Examiner's interpretation of the claim language and application of the cited teaching, direct reference to Appellant's own specification is made. Appellant's specification states:

> In this instance, the user interface 510 may take the form of an operation
> panel (e.g. operation panel 174 in FIG. 3) with a plurality of keys and/or a
> touch screen which a user operates to control the image forming device.

(p. 19 lines 3 – 5); and

> As shown in FIG. 11, such an operation panel 700 may include a touch
> screen 705 on which various commands may appear which an operator
> can select by touching different portions of the touch screen 705.

(p. 19 lines 12 – 14). Accordingly, the user interface taught by Aikens is consistent with the claimed operation panel. For the reasons in the explanation regarding the combination of Wygodny and Aikens, it would have been obvious to one of ordinary skill

in the art to monitor user selection of functions (Aikens: col. 4 lines 15 – 18) as key

event information (Aikens: col. 4 lines 51 – 64).

With respect to separately argued dependent claims, Appellant argues Wygodny

fails to teach setting a number of sessions as claimed. Examiner respectfully disagrees.

The claims do not specify to what a session is limited and the term has been interpreted

to include an event, although it is not limited to this interpretation and other

interpretations are appropriate.

Wygodny teaches the number of records or events that are maintained can be

specified (col. 19 lines 20 – 22, 54 – 56; col. 26 lines 33 – 37). Additionally, Aikens also

teaches setting the number of sessions prior to sending the data as claimed by

teaching:

> A data transfer means in the form of an event spooling routine in
> software, which is periodically called, writes the event data accumulated in
> the buffer of memory 155 into an event or occurrence logger file 158 for
> transmission to the physical data and threshold file 185. Typically, the
> event spooling routine is repeated on a given cycle, i.e., after a present
> number of machine pitches.

(col. 4 line 65 – col. 5 line 4). In combination with Wygodny's teaching that "The user

110 sends the trace log file 122 back to the developer 112," (col. 6 lines 11 – 12), the

two references teach setting the number of sessions that occur before sending the

monitored data.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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